



Agenda Date: 1/18/01

Agenda Item: IV-A

## **STATE OF NEW JERSEY**

### ***Board of Public Utilities***

*Two Gateway Center*

*Newark, NJ 07102*

#### CABLE TELEVISION

IN THE MATTER OF THE PETITION OF	)	<u>RENEWAL</u>
CLEAR CABLEVISION, INC. D/B/A	)	<u>CERTIFICATE OF APPROVAL</u>
ADELPHIA CABLE COMMUNICATIONS	)	
FOR RENEWAL OF A CERTIFICATE OF	)	
APPROVAL TO CONTINUE TO OPERATE	)	
AND MAINTAIN A CABLE TELEVISION	)	DOCKET NO. CE00050314
SYSTEM IN THE TOWNSHIP OF OCEAN,	)	
COUNTY OF OCEAN, STATE OF	)	
NEW JERSEY	)	

Meyner and Landis, Newark, New Jersey, by Francis R. Perkins, Esq., for the Petitioner.

Township Clerk, Township of Ocean, New Jersey, by Dorothy Horner, for the Township.

#### **BY THE BOARD:**

On January 27, 1977, the Board granted Cable Haven TV, Inc. ("Cable Haven") a Certificate of Approval, in Docket No. 744C-6018, for the construction, operation and maintenance of a cable television system in the Township of Ocean ("Township"). On January 29, 1981, in Docket No. 8012C-6736, the Board approved the transfer of the Certificate of Approval from Cable Haven to Clear Cable TV, Inc. ("Clear"). On April 26, 1984, in Docket No. 8312C-7044, the Board approved the transfer of the Certificate of Approval from Clear to Adelphia Cablevision, Inc. ("Petitioner"), which order was subsequently amended on January 25, 1985. On June 18, 1991, the Board approved a Renewal Certificate of Approval for the Township in Docket No. CE90020151. On December 21, 2000, the Board approved the transfer of the Certificate from the Petitioner to Comcast Cable Communications ("Comcast"), in Docket No. CM00030167. Comcast is required to fulfill any obligations agreed to by the Petitioner. Although the Petitioner's Certificate expired on October 10, 1999, it is authorized to continue to provide cable television service to the Township pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the Township on January 7, 1999, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. On April 13, 2000, the Township, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner. On April 21, 2000, the Petitioner formally accepted the terms and conditions of the ordinance in accordance with N.J.S.A. 48:5A-24.

On May 16, 2000, pursuant to N.J.S.A. 48:5A-16, Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is 12 years. The Office of Cable Television finds this to be reasonable.
5. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
6. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
7. The Petitioner shall maintain a local business office, within a reasonable proximity of its service area and in no event outside its service territory, for the purpose of receiving, investigating and resolving complaints. The Petitioner may be relieved from maintaining a local office within its service territory if it maintains a toll free number by which subscribers may contact the Petitioner. The local offices currently satisfying this provision are located at 830 Route 37 West in Toms River and the Whiting Shopping Center on Route 530 in Manchester Township.
8. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
9. The Petitioner shall utilize the line extension policy attached to the Certificate as Appendix "I". The minimum homes per mile figure ("HPM") is 35.

10. The Petitioner shall provide public, educational and governmental ("PEG") access facilities and equipment in accordance with its renewal consent application and the municipal consent ordinance. The Petitioner provides one PEG access channel, which is to be shared by the Township and the Waretown Elementary School District. The Southern Regional School System channel shall also remain in the channel line-up. The Petitioner shall provide all the necessary equipment, including modulator, character generator, and switching equipment, to enable the shared channel to cablecast its programming directly on the cable system. The equipment shall be installed at a location in the municipal building to be chosen by the Township and the Petitioner shall provide instruction regarding usage of the equipment. The Petitioner was required to have provided said equipment and complete all work prior to July 30, 2000. The Petitioner has confirmed that this is completed.
11. The Petitioner also provides a local origination channel and provides some studio and portable equipment for access users.
12. The Petitioner shall continue to provide installation and service to each school and in the public library in the Township free of charge.
13. At the request of the Township, the Petitioner shall meet with the Township's designee at least annually to review all matters pertaining to cable television service in the Township.

Based upon these findings, the Board HEREBY CONCLUDES, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system for the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings contained therein shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on October 10, 2011.

DATED: January 18, 2001

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

HERBERT H. TATE  
PRESIDENT

(signed)

FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH  
BOARD SECRETARY